In the

United States Court of Appeals

For the Ninth Circuit

ESTATE OF GRACE N. WILLIAMS,
Deceased,
Ralph E. Williams, Executor, *Petitioner,*

v.

COMMISSIONER OF INTERNAL
REVENUE, *Respondent.*

NO. 15503

ON PETITION FOR REVIEW OF DECISION OF
THE TAX COURT OF THE UNITED STATES
CLARENCE P. Le MIRE, *Judge*

BRIEF FOR PETITIONER

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STATEMENT OF JURISDICTION

The Petitioner is the duly qualified and acting Executor of the Estate of Grace N. Williams, deceased August 20, 1954, under letters testamentary issued by the Circuit Court of the State of Oregon for the County of Multnomah, Department of Probate, on September 29, 1954.

The individual income tax returns of Grace N. Williams, the decedent taxpayer, for the years 1951 and

1952, were filed with the United States District Director of Internal Revenue for the District of Oregon, whose office is located at Portland, Oregon, within the jurisdiction of the United States Court of Appeals for the Ninth Circuit. On February 3, 1955, the District Director determined a deficiency of income taxes against the Estate of the decedent taxpayer for the years 1951 and 1952, against which deficiency the Petitioner filed a timely petition with The Tax Court of the United States, which Court had jurisdiction of the controversy under 26 U.S.C. § 7442. The Tax Court, Clarence P. Le Mire, J., rendered a final decision adverse to Petitioner December 12, 1956, T. C. Memo. 1956-239.

Petitioner filed a timely notice of petition for review by this Court on March 7, 1957. The jurisdiction of this Court is invoked under 26 U.S.C. §§ 7482 and 7483.

STATUTES AND REGULATIONS

The relevant statutes and regulations are set forth in an appendix to this brief.

STATEMENT OF THE CASE

This controversy involves the determination of the decedent taxpayer's liability for federal individual income taxes for the calendar years 1951 and 1952. R. 112. The calendar year 1951 is here involved by reason

of the provisions of 26 U.S.C. § 23 (s), (I.R.C. 1939) relating to the carrying back of net losses against income of a prior year.

On March 1, 1951, Grace N. Williams (hereinafter called the decedent) exchanged all of the assets and liabilities of a farm owned and operated by her as an individual proprietor for the capital stock of Eola Farms, Inc., an Oregon corporation, R. 113.

During the period from March 1, 1951 until July 31, 1952, the decedent was the sole stockholder of Eola Hop Farms, Incorporated, an Oregon corporation, engaged in the business of hop farming in Marion County, Oregon, R. 31. On July 31, 1952, Eola Hop Farms, Incorporated, distributed to the decedent as a liquidating dividend all of its assets consisting of 165 acres of land of which 149.5 acres were planted to hops (R. 30, (Stip. 6)), together with all other assets of the corporation including the buildings and equipment necessary to operation of the farm, R. 30, 31, (Stip. 3).

The decedent reported receipts from sales of the 1952 hop crop in the amount of $46,445.72 for the year 1952, (R. 31, R. 33 (Ex. 1-A)), and expenses applicable thereto of $86,181.55. The latter sum was made up of $44,165.66 claimed by the decedent as the value of the growing crop received in liquidation of the Eola Farms,

Inc. and the costs of harvesting and marketing the crop, $42,015.89, R. 31.

The sole contested issue before The Tax Court was the fair market value of the crop of hops growing upon the lands distributed to the decedent by Eola Hop Farms, Incorporated, as of July 31, 1952, R. 36. The expenses incurred by the corporation during the period from January 1 to July 31, 1952, for the planting, care, and cultivation of the growing crop of hops amounted to $44,165.66. This sum was carried on the balance sheet of the corporation as an asset (prepaid expense), at the time of distribution to the decedent, R. 25, (Ex. C), 31.

The hop industry had been suffering from serious overproduction since 1950. The market, for the most part of 1952, was relatively inactive. Under the Agriculture Market Agreement Act of 1937, the industry put into effect an agreement providing the industry with authority to bring supplies in balance with demand. The agreement was administered by a Hop Control Board made up of growers, dealers, brewers, and Government representatives. The Board met in the late summer of each year and made a survey of prospective demand and other factors which might affect market conditions. It determined what it considered to be the salable quantity of crop then planted — a quantity

which the trade could consume during the succeeding twelve month period — and recommended to the Secretary of Agriculture that the quantity of hops it estimated the brewing industry could use during the succeeding twelve-month period (after consideration of estimated exports and imports and a deduction for inventories on hand) be declared as the salable quantity from the current year's crop. In general, and during 1952, the Board's recommendation of salable quantity was adopted by the Secretary without substantial change, R. 115, 116.

The overall salable quantity of hops determined by the Secretary was expressed (after harvest) as the salable percentage of each grower's crop. The grower was not permitted to market more than such established percentage. It was however necessary for each grower to harvest all of his crop including the unsalable portion, R. 116.

The decision of the Secretary of Agriculture regarding the relationship of the salable quantity to the total crop was not made, nor was the surplus percentage of the particular crop established until every last bale of hops was weighed and the unharvested acreage determined by the Hop Control Board, R. 106. During the year 1952, a tentative allocation was made some time during October, R. 81. The final determination

was not made by the Secretary of Agriculture until approximately December 15, 1952, R. 107, 108.

Petitioner, Ralph E. Williams, had many years experience as a dealer in hops and as a grower, R. 39. He had actively managed the decedent's hop farm, Eola Farm, since 1940, (R. 53), and during the years here involved was a member of the Hop Control Board, R. 56.

The contention of the Petitioner before the Tax Court was that the fair market value of the growing crop distributed to the decedent was not determinable at July 31, 1952, and that the value of the growing crop was not less than the costs of production of the crop to the date of distribution; i.e. $44,165.66.

The Respondent, Commissioner of Internal Revenue, determined the value of the growing crop at July 31, 1952, to be $4,375.40, R. 37. The Respondent's determination was arrived at by deducting from the total farm revenues, the costs of operation of the farm from August 1 to December 31, 1952.

The Respondent's determination that the fair market value of the crop distributed to the decedent was $4,375.40 instead of the sum of $44,165.66 claimed by the decedent resulted in an increase in the taxable income of the decedent for the year 1952 of $39,790.26

and the elimination of the loss carry-back claimed by the decedent against income of the calendar year 1951.

The Tax Court found as an ultimate fact that the fair market value of the growing crop distributed to the decedent as of July 31, 1952, was $11,500.00.

QUESTION PRESENTED

Does the evidence require a finding that the growing crop distributed to the decedent taxpayer July 31, 1952, was worth not less than the costs of production to that date?

SPECIFICATIONS OF ERROR

The Tax Court's finding as an ultimate fact that the value of the growing crop at July 31, 1952, was $11,500.00 is not supported by the evidence and is contrary to law.

The Tax Court did not apply the rule it properly held to be applicable to the determination of the value of the growing crop.

SUMMARY OF EVIDENCE

The testimony and evidence adduced at the trial was that the average yield of hops from land in the vicinity of the Eola Farm was from five to seven and

one-half bales (of 200 pounds each) to the acre, (R. 40, 65, 71, 77), and that an estimate of the yield per acre made at July 31 of any year could vary downward as much as 30%, (R. 66, 77), and that seldom did the actual yield exceed the estimate, R. 66.

The witnesses further testified: that, there was little or no risk of loss of the crop (in that area) from July 31 to date of harvest, (R. 44, 68); that, the average cost of production, cultivation, and care to that date was from 20 to 25 cents per pound, (R. 43, 65, 73); that, the average additional cost of harvest and sales subsequent to July 31 was from 20 to 25 cents per pound, R. 46, 72.

Beginning with July 1 of each year, the crop reporting service of the Department of Agriculture prepared a monthly estimate of the hop crop for the current year, which was released about the tenth of the following month, R. 106. This estimate was available to the trade in general, (R. 92), and was not a factor in the recommendation of the salable quantity of hops from the current crop as made by the Hop Control Board, (R. 57), whose function it was to estimate the demand for hops during the coming year and to establish a salable quantity from the current year's crop, R. 104, 105.

A comparison of the salable quantity of hops adopted by the Secretary of Agriculture to the current estimates of hop production made by the Crop Reporting Service would enable anyone to approximate the unsalable portion of the current hop crop (surplus percentage), assuming that the crop turned out as estimated, R. 105. The ratio of the salable quantity of hops to the total crop, (salable percentage), was dependent upon what the crop turned out to be, and could not be established until every last bale was weighed; the unharvested acreage estimated and the figures established, R. 104, 105.

At July 31, 1952, the total pounds from the current crop which could be consumed during the following year by the brewing industry (salable quantity) was known or could be reasonably approximated by the Petitioner (R. 58, 103, 104). During 1952, the proportion (salable percentage) that this quantity represented of the total current crop was not determined until approximately December 15, 1952 (R. 108) although notice of a tentative allotment was received some time during October, R. 79, 81.

During the 1951-52 crop year (September 1 to August 31), supplies of hops were well above market needs and domestic demand for hops was slow. During late 1952, the range in market prices for hops of the type

grown on the Eola Farm was from 49 to 52 cents per pound, R. 44, 88.

The Petitioner's crop could have been sold at July 31, 1952, at the prevailing bid prices but the Petitioner would not sell at the prices offered, R. 44, 46, 80.

For the year 1950, the salable percentage of each grower's crop was slightly in excess of 85 per cent of the crop as finally harvested and determined; for the year 1951, the salable percentage was approximately 74 per cent, R. 81, 82. During both years, a profit was earned from the sale of hops grown on the Eola Farm, R. 31, 114. A substantial loss was sustained upon sales of the 1952 crop. R. 31, 114. During the year 1952, the salable percentage of hops grown on the Eola Farm was 65.7 per cent, R. 81, 116. During this year, the dealers and the growers did not believe that the surplus percentage of the 1952 crop would be as much or as high as it was finally determined and anticipated that it would be at the most 25 per cent or even less than that, R. 88.

Lack of knowledge of the salable allotment prevented the placing of a market value upon the crop growing at July 31, 1952 (R. 52), although the Petitioner could estimate the allotment within reasonable bounds, R. 58, 105.

The Petitioner did not know at July 31, that a loss would be sustained upon sale of the 1952 crop (R. 61), nor was the anticipation of a substantial loss upon the sale of the 1952 crop a material factor in the decision to liquidate the corporation, R. 55, 56, 59.

The corporation (Eola Farms, Inc.) had no earned surplus at July 31, 1952, the date of dissolution and liquidation of the corporation. The corporation's capital had been impaired by a deficit at that date in the amount of $8,285.34, R. 25 (Ex. C). The Petitioner was aware prior to liquidation of Eola Farms, Inc., that the decedent taxpayer could have obtained the total of the corporation's investment in the crop at July 31, 1952, as a deduction from ordinary income by means of a tax free liquidation, R. 62, 63; (I.R.C. (1939) § 112 (b) (7)).

ARGUMENT

I

THE DECISION OF THE TAX COURT IS NOT SUPPORTED BY THE EVIDENCE.

In its opinion, the Court stated the rule that in dealing with special property which admits of no accurate determination, recognition is given to the rule of reasonableness and common sense, and that facts of probative force serve to fix value, R. 118.

The Court's finding as an ultimate fact that the value of the crop distributed to the decedent taxpayer at July 31, 1952, was $11,500.00 (R. 119), must have been based upon the following calculation, or a calculation substantially similar thereto:

Market price bid at July 31, applied to approximately ⅔ of crop, (harvested, 52,740 pounds):	
100,000 pounds @ 49 cents	$49,000.00
Cost of harvesting 150,000 pounds @ 25 cents	37,500.00
Value of crop	$11,500.00

Implicit in the Court's determination of the fair market value of the growing crop distributed to the decedent taxpayer at July 31, is the finding that on July 31, 1952, it was known that not less than one-third of the crop could not be sold.

The preceding calculation is understandable in view of the Court's finding as a fact that Ralph E. Williams, Jr. participated in the deliberations of the Board on July 17, 1952, at which time the Board recommended that approximately 36 per cent of the crop be declared non-salable, R. 117. This finding was in error because the Tax Court misunderstood the function of the Hop Control Board, and confused the salable quantity

recommended by the Hop Control Board during July with the salable percentage of crop determined some three to five months later by th Secretary of Agriculture.

The evidence is clear that the Hop Control Board did not recommend the salable percentage of the total crop, R. 57, 104, 105. Its sole function was to estimate the quantity of hops the brewing industry could consume and to recommend to the Department of Agriculture that sales of hops from the current crop be limited to that quantity, R. 103, 105. The Board recommended that the salable quantity of the 1952 crop of hops be fixed at 39,200,000 pounds. The basis of the Board's recommendation is fully set forth in a notice of a proposed administrative rule published in the Federal Register, August 7, 1952, Vol. 17 F.R. 7187, a copy of which is included in the appendix hereto.

Respondent's witness testified that beginning with July 1, of each year, the crop reporting service of the Department of Agriculture prepared a monthly estimate of the hop crop for the current year which estimate was released about the tenth day of the month following, R. 106. This report was not confidential; it was available not only to the Hop Control Board but to the trade in general, R. 92.

Not only did the Petitioner testify that the Department of Agriculture's estimate of the 1952 crop "did not constitute any element whatsoever" in the determination of the salable quantity of hops recommended by the Board as the pounds the brewing industry could be expected to consume, (R. 57), but Respondent's own witness so testified, R. 104, 105.

In view of the testimony in this proceeding that an estimate of crop made at July 31 might vary as much as 30% (R. 66), or as much as from one to two bales per acre, (R. 78), it is readily apparent that an estimate made one month earlier at July 1, (published about July 10, (R. 106)), would be of little or no value for the purpose of determining the relationship between the quantity of hops the industry could be expected to consume to the total crop yield for the current year.

The testimony of the Respondent's witness in this proceeding is also equally clear that the ratio of the salable quantity of hops recommended by the Hop Control Board and the proportion that quantity represented of the total crop could not be determined until every last bale of hops was processed and baled and the acreage of unharvested crops estimated, R. 105, 106.

There was therefore no basis in the evidence or the testimony for the finding of the Tax Court that the Hop

Control Board recommended or determined that 36 per cent of the 1952 crop would not be sold, and it was error for the Court to give effect to a reduction of more than ⅓ in determining the sales value of the crop.

The Court's finding of a market price of 49 cents per pound is in error because, the "fair market" price or value at a particular time is to be determined from all of the circumstances. The testimony is uncontradicted that 49 cents was the lowest price bid for hops at July 31, 1952, R. 44, 88, and that there were few sales, R. 62. The fact of sales in itself does not conclusively establish either fair market price or value. The ascertainment of value requires that there must be not simply a market price but a *fair* market price, and opinions of intelligent men experienced in the business are admissable to show fair value, Heiner v. Crosby, 24 F. 2d. 191. (C.A. 3, 1928)

The Court's finding that the growing crop was worth $11,500.00 and not $44,165.66 involves hindsight in that it assumes that the exact yield and that the portion of the growing crop to be determined as surplus were known at July 31, 1952; it has the effect of making certain what was at that date pure speculation.

II

THE COURT COULD NOT REJECT THE TESTIMONY OF WITNESSES HAVING EXPERIENCE AND KNOWLEDGE OF THE SUBJECT MATTER WHERE THE TESTIMONY WAS NOT CONTRADICTED.

The Court refused to accept the Petitioner's contention that the fair market value of the growing crop distributed to the decedent taxpayer at July 31, 1952, was not less than the costs of production, cultivation, and care to that date, R. 118.

The uncontradicted testimony was that the expected yield was from 5 to 7½ bales per acre (approximately 150,000 to 225,000 pounds) (R. 40, 65, 71, 77); that the market (bid) price for hops at July 31, 1952, was from 49 to 52 cents per pound, (R. 46, 88); that the cost of harvesting was from 20 to 25 cents per pound, (R. 46, 72); that the hops could have been sold for the prices bid at July 31, (R. 44, 88), and that the Petitioner did not anticipate a loss upon the sale of the crop, R. 61.

The Petitioner, Ralph E. Williams, managed the decedent taxpayer's farm (R. 44), and was qualified by experience and training as well as by knowledge to testify to the value of the crop and to the probable market therefor. He stated that lack of knowledge at July 31, 1952, of the salable percentage of the crop

prevented the placing of a market value upon the crop (R. 52), and that the crop could have been sold (R. 46), but he would not have sold at the prices bid, R. 52. The witness also testified that counsel for the decedent taxpayer participated in the decision to liquidate the corporation (R. 55), and that he was informed and was aware that the taxpayer could have obtained the corporation's cost of the crop as a deduction from ordinary income of the taxpayer (by election to liquidate under the provisions of the Internal Revenue Code (1939) 112 (b) (7)), R. 62, 63. It appears obvious that had the crop been of little value, the corporation would have been liquidated in this manner if for no other reason than to avoid controversy regarding the value of the crop and denial of any loss resulting from a valuation at less than the sum of $44,165.66 expended for production and care of the crop to July 31, 1952.

Frank Kennedy, a disinterested witness with thirty-five years experience in the growing of hops on a farm adjacent to the Eola Farm, testified the average yield of hops grown on farms in the area was from 5 to 7 bales to the acre and that the costs of production were from 20 to 25 cents per pound, R. 65, 66. He also testified that he was familiar with the crops growing on the Eola Farm and that as a grower of hops he would not sell the growing crop at July thirty-first of any year

for less than the cost of production. He further testified that he would not have sold a growing crop of hops on July 31, 1952, for thirty cents per pound, assuming the market price was fifty cents per pound on that date for delivery of the hops after harvest, R. 67.

Since a bid of fifty cents per pound for hops at July 31, 1952, would, after deduction of the average costs of picking and harvesting, yield a return equal to the average costs of production, cultivation, and care of the crop to that date only if the entire crop were sold, it is apparent that a statement that the grower of hops would not sell his crop for less than the cost of production meant that he would not sell his crop for less than the cost of production of the *entire crop;* the statement did not mean that he would not sell his crop for the cost of production of that portion of the crop determined salable at a later date.

C. W. Paulus, an experienced dealer in hops since 1933, was familiar with the 1952 crop during its period of growth on the Eola Farm, (R. 76); he also testified (as a broker) that he could have sold that crop at July 31 and that the Petitioner would not sell.

The witnesses were qualified to testify to the value of the property by reason of their experience and dealings in the property and their knowledge of similar

property. None of the preceding testimony was contradicted, discredited or impeached.

In a question involving the amount of entertainment expenses claimed as a deduction by an actor, Blackmer v. Commissioner, 70 F.2d 255, 257 (C.A. 2, 1934), and a question regarding the valuation of property owned by a corporation of which the witness was the President, A & A Tool & Supply Company v. Commissioner, 182 F.2d 300, 304 (C.A. 10, 1950), the Court of Appeals held that the Tax Court may not arbitrarily discredit and disregard unimpeached, competent and relevant testimony which is uncontradicted.

III

THE COURT DID NOT APPLY THE RULE FOR THE DETERMINATION OF VALUE OF THE GROWING CROP SET FORTH IN ITS OPINION.

The Court's determination that the growing crop was worth $11,500.00 at July 31, 1952 violates that portion of the Court's statement of the rule relating to reasonableness and common sense (R. 118), because there is no evidence that any reasonable grower would at July 31, assuming the facts existing in this case, sell his crop based upon an estimate of the *minimum* yield and *maximum* harvest costs and subject to a further

reduction much greater than anything in his past experience. There is substantial evidence to the contrary, R. 48, 67, 80. The testimony and evidence in this case does not support the Court's decision.

CONCLUSION

The judgment of the Tax Court should be reversed and the case remanded for a new trial with instructions that all of the oral evidence be considered and appropriately weighed because the conclusions of the Court upon which the judgment is based can be sustained only by giving effect at July 31 to knowledge obtainable from three to five months later.

Respectfully submitted,

JOHN L. FLYNN,
BURTON L. COAN,
Attorneys for Appellant.

APPENDIX

STATUTES AND REGULATIONS INVOLVED

Internal Revenue Code (1939):

Section 111. Determination of amount of, and recognition of, gain or loss:

(a) Computation of gain or loss. The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 113 (b) for determining gain, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

(b) Amount realized. The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received.

(c) Recognition of gain or loss. In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized for the purposes of this chapter, shall be determined under the provisions of section 112. * * * * *

Regulations 118:

Section 39. 111-1 Computation of gain or loss.

(a) Except as otherwise provided, the Internal Revenue Code regards as income or as loss sustained, the gain or loss realized from the conversion of property into cash, or from the exchange of property for other property differing materially either in kind or in extent. The amount realized from a sale or other disposition of property is the sum of any money received plus the fair market value of any property which is received. The fair market value of property is a question of fact, but only in rare and extraordinary cases will property be considered to have no fair market value. * * * * *

Section 112. Recognition of Gain or Loss.

(a) General Rule.—Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 111, shall be recognized, except as hereinafter provided in this section.

(b) Exchanges Solely in Kind.—

* * * * *

(7) Election as to recognition of gain in certain corporate liquidations.—

(A) General rule.—In the case of property distributed in complete liquidation of a domestic corporation, if—

(i) the liquidation is made in pursuance of a plan of liquidation adopted after December 31, 1950,

whether the taxable year of the corporation began on, before, or after January 1, 1951; and

(ii) the distribution is in complete cancellation or redemption of all the stock, and the transfer of all the property under the liquidation occurs within some one calendar month in 1951, 1952, or 1953—

then in the case of each qualified electing shareholder (as defined in subparagraph (C) gain upon the shares owned by him at the time of the adoption of the plan of liquidation shall be recognized only to the extent provided in subparagraphs (E) and (F).

* * * * *

(C) Qualified electing shareholders.—The term "qualified electing shareholder" means a shareholder (other than an excluded corporation) of any class of stock (whether or not entitled to vote on the adoption of the plan of liquidation) who is a shareholder at the time of the adoption of such plan, and whose written election to have the benefits of subparagraph (A) has been made and filed in accordance with subparagraph (D), but—

* * * * *

(E) Noncorporate shareholders. In the case of a qualified electing shareholder other than a corporation—

(i) There shall be recognized, and taxed as a dividend, so much of the gain as is not in excess of his ratable share of the earnings and profits of the corporation accumulated after February 28, 1913, such earnings and profits to be determined as of the close of the month in which the transfer in liquidation occurred under subparagraph (A) (ii), but without diminution by reason of distributions made during such month; but by including in the computation thereof all amounts accrued up to the date on which the transfer of all the property under the liquidation is completed; and

(ii) There shall be recognized, and taxed as short-term or long-term capital gain, as the case may be, so much of the remainder of the gain as is not in excess of the amount by which the value of that portion of the assets received by him which consists of money, or of stock or securities acquired by the corporation after August 15, 1950, exceeds his ratable share of such earnings and profits.

* * * * *

FEDERAL REGISTER

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 986]

HOPS GROWN IN OREGON, CALIFORNIA, WASHINGTON, AND IDAHO, AND HOP PRODUCTS PRODUCED THEREFROM IN THESE STATES

SALABLE QUANTITY OF 1952 CROP HOPS

Notice is hereby given that the Department is considering the issuance of the proposed administrative rule herein set forth pursuant to provisions of Marketing Agreement No. 107, as amended, and Order No. 86, as amended, regulating the handling of hops grown in Oregon, California, Washington, and Idaho, and of hop products produced therefrom in these States (17 F.R. 6626), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Prior to the issuance of such administrative rule consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, U.S. Department of Agriculture, Washington, D. C., and which are received not later than the close of business on the tenth day after the date of publication of this notice in the FEDERAL REGISTER, except that, if such tenth day after publication should fall on a holiday, Saturday, or Sunday, such submission may be received by the Director not later than the close of business on the next following work day.

Pursuant to provisions of the aforesaid amended agreement and amended order the Hop Control Board, the administrative agency thereunder, has transmitted to the Secretary of Agriculture its estimates relating to hop stocks and consumptive demand for hops, and has recommended that the salable quantity of 1952 crop hops be fixed at 39,200,000.

In arriving at the salable quantity which it has recommended the Board estimated consumptive demand for the 12 months beginning September 1, 1952, at 45,905,000 pounds, comprised of domestic usage for brewing, 35,805,000 pounds, other domestic usage, 600,000 pounds, and exports, 9,500,000 pounds. It estimated that hop stocks would decrease by 3,000,000 pounds during the period and that 1952 production in areas outside of the production area would be 105,000 pounds. The Board estimated that imports during the 12 months beginning September 1, 1952, would be 3,600,000 pounds which, subtracted from its estimate of consumptive demand, as adjusted for the estimated decrease in hop stocks and 1952 production outside of the production area, results in a quantity of 39,200,00 pounds, the salable quantity which the board recommends be supplied from 1952 crop hops produced in the production area.

On the basis of the foregoing data and of other pertinent data of hop supplies and usage, it is proposed to accept the Board's recommendation of the salable quantity of 1952 crop hops.

Therefore, such proposed administrative rule is as follows:

§ 986.204 *Salable quantity of 1952 crop hops.* The maximum quantity of hops produced during 1952 which may be handled in the form of hops and in the form of any hop product shall be 39,200,000 pounds (net dry weight).

Issued at Washington, D. C., this 1st day of August 1952.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Branch.

[F. R. Doc. 52-8722: Filed, Aug. 6, 1952; 8:57 a.m.]